



Rep. Jim Durkin

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1 AMENDMENT TO HOUSE BILL 5241

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5241, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Department of State Police Law of the Civil  
6 Administrative Code of Illinois is amended by changing Section  
7 2605-40 as follows:

8 (20 ILCS 2605/2605-40) (was 20 ILCS 2605/55a-4)

9 Sec. 2605-40. Division of Forensic Services.

10 (a) The Division of Forensic Services shall exercise the  
11 following functions:

12 (1) Exercise the rights, powers, and duties vested by  
13 law in the Department by the Criminal Identification Act.

14 (2) Exercise the rights, powers, and duties vested by  
15 law in the Department by Section 2605-300 of this Law.

16 (3) Provide assistance to local law enforcement  
17 agencies through training, management, and consultant  
18 services.

19 (4) (Blank).

20 (5) Exercise other duties that may be assigned by the  
21 Director in order to fulfill the responsibilities and  
22 achieve the purposes of the Department.

23 (6) Establish and operate a forensic science  
24 laboratory system, including a forensic toxicological

1 laboratory service, for the purpose of testing specimens  
2 submitted by coroners and other law enforcement officers in  
3 their efforts to determine whether alcohol, drugs, or  
4 poisonous or other toxic substances have been involved in  
5 deaths, accidents, or illness. Forensic toxicological  
6 laboratories shall be established in Springfield, Chicago,  
7 and elsewhere in the State as needed.

8 (7) Subject to specific appropriations made for these  
9 purposes, establish and coordinate a system for providing  
10 accurate and expedited forensic science and other  
11 investigative and laboratory services to local law  
12 enforcement agencies and local State's Attorneys in aid of  
13 the investigation and trial of capital cases.

14 (b) When used in this Section, the following words and  
15 terms shall have the meanings ascribed to them in this  
16 subsection:

17 "Forensic laboratory" means any laboratory operated by the  
18 Division of Forensic Services that performs forensic testing on  
19 evidence in an investigation or other proceeding for the  
20 prosecution of a violation of the Criminal Code of 1961 or for  
21 matters adjudicated under the Juvenile Court Act of 1987.

22 "Forensic testing" includes the analysis of physical  
23 evidence in an investigation or other proceeding for the  
24 prosecution of a violation of the Criminal Code of 1961 or for  
25 matters adjudicated under the Juvenile Court Act of 1987, and  
26 includes the use of forensic databases and databanks, including  
27 DNA, firearm, and fingerprint databases, and expert testimony.

28 "ISO accreditation" means accreditation under standard  
29 17025 of the International Organization for Standardization.

30 (c) A forensic laboratory authorized under this Section  
31 must establish and carry out procedures to ensure, upon  
32 subpoena request by prosecution or defense counsel, complete  
33 disclosure in legal proceedings. Disclosure shall include, but  
34 is not limited to, all reports, notes, and conversation logs,

1 quality assurance and quality control (QA/QC) documentation,  
2 protocol and procedure manuals, unless the disclosure would be  
3 burdensome and duplicative, command directives and other  
4 statements of procedure and policy relating to forensic  
5 testing, validation studies, documentation relating to  
6 corrective actions and remedial actions, incidents, incident  
7 logs, errors, and incidents of contamination, proficiency  
8 tests, and results. This disclosure obligation also applies to  
9 any subcontractors used by the forensic laboratory to undertake  
10 forensic examinations. Forensic laboratories shall also ensure  
11 prosecution and defense counsel reasonable access to interview  
12 personnel involved in the case. This shall include cases that  
13 the laboratory sends to other contract laboratories as  
14 subcontractors. Costs for interviews and discovery materials  
15 in cases involving subcontractors shall be born by the Illinois  
16 State Police. Disclosure shall be limited to the documents and  
17 personnel used in the pending case unless a court determines  
18 that additional discovery is material and relevant.

19 (d) Forensic laboratories authorized under this Section  
20 shall report to the Illinois Laboratory Advisory Committee:

21 (i) allegations made known to the Illinois State Police  
22 against a forensic laboratory or its staff of  
23 misrepresentation of data, credentials, test results,  
24 testimony, or any deception or misrepresentation in  
25 obtaining forensic laboratory accreditation;

26 (ii) results from any and all investigations regarding  
27 allegations or incidents disclosed under subdivision  
28 (a)(i) of this Section with supporting documentation;

29 (iii) instances of errors in the performance of  
30 forensic laboratory examination procedures or incidents of  
31 contamination; and

32 (iv) incidents where full and complete disclosure is  
33 not made to counsel or interviews are not provided to  
34 counsel.

1       Any complaint or allegation reported under subdivision  
2       (d) (i) or (d) (ii) shall cause the Committee Chair to appoint a  
3       balanced subcommittee to review the complaint or allegation and  
4       timely report back to the full Illinois Laboratory Advisory  
5       Committee with recommendations on the appropriate action and  
6       response. If a complaint or allegation, reported under  
7       subdivision (d) (i) or (d) (ii), is filed against a Committee  
8       member or his or her representative agency, that member is  
9       prohibited from serving on the subcommittee to review the  
10       complaint or allegation and prohibited from voting on any  
11       recommendation for appropriate action and response related to  
12       that complaint or allegation. If the complaint or allegation is  
13       determined to be unfounded, the subcommittee shall report that  
14       finding to the full Committee.

15       (e) A forensic laboratory authorized under this Section  
16       shall respond to all inquiries from the Illinois Laboratory  
17       Advisory Committee.

18       (f) Notwithstanding any provision of this Section to the  
19       contrary, no private or public laboratory shall be granted a  
20       subcontract to conduct forensic testing of evidence unless that  
21       laboratory has acquired ISO accreditation.

22       (Source: P.A. 90-130, eff. 1-1-98; 91-239, eff. 1-1-00; 91-589,  
23       eff. 1-1-00; 91-760, eff. 1-1-01.)

24       Section 10. The Illinois Laboratory Advisory Committee Act  
25       is amended by changing Section 5 as follows:

26               (20 ILCS 3981/5)

27       Sec. 5. Illinois Laboratory Advisory Committee; creation.

28       (a) There is created the Illinois Laboratory Advisory  
29       Committee (hereinafter referred to as the Committee).

30       (b) The Committee shall consist of 16 ~~15~~ members appointed  
31       as follows:

32               (1) one member who is a scientist from the Department

1 of Agriculture, appointed by the Director of Agriculture;

2 (2) one member who is a scientist from the Department  
3 of Natural Resources, appointed by the Director of Natural  
4 Resources;

5 (3) one member who is a scientist from the Department  
6 of Public Health, appointed by the Director of Public  
7 Health;

8 (4) one member who is a scientist from the Department  
9 of State Police, appointed by the Director of State Police;

10 (5) one member who is a scientist from the  
11 Environmental Protection Agency, appointed by the Director  
12 of the Environmental Protection Agency;

13 (6) one member who is a scientist from the Illinois  
14 Emergency Management Agency, appointed by the Director of  
15 the Illinois Emergency Management Agency;

16 (7) one member who is a scientist from the Department  
17 of Transportation, appointed by the Secretary of  
18 Transportation;

19 (8) one member who is a licensed attorney, with  
20 expertise in scientific evidence, appointed by the Cook  
21 County Public Defender;

22 (9) one member who is a licensed attorney, with  
23 expertise in scientific evidence, appointed by the Cook  
24 County State's Attorney;

25 (10) one member who is a licensed attorney, with  
26 expertise in scientific evidence, appointed by the State  
27 Appellate Defender;

28 (11) one member who is a licensed attorney, with  
29 expertise in scientific evidence, appointed by the  
30 Director of the Office of the State's Attorneys Appellate  
31 Prosecutor;

32 (12) one member who is a licensed attorney, with  
33 expertise in scientific evidence, appointed by the  
34 Attorney General;

1 (13) one member who is an academic scientist with an  
2 advanced degree in life, physical, or medical sciences  
3 appointed by the Attorney General;

4 (14) one member who is a scientist employed by the  
5 DuPage County Sheriff's Crime Laboratory appointed by the  
6 DuPage County Sheriff's Crime Laboratory Director; ~~and~~

7 (15) one member who is an academic forensic scientist  
8 with an advanced degree in the life, physical,  
9 criminalistic, or medical sciences appointed by the  
10 president of the University of Illinois; and -

11 (16) one member who is a forensic scientist employed by  
12 an in-state private forensic laboratory that has ISO  
13 accreditation.

14 (a-5) For the purposes of this Section, "ISO accreditation"  
15 has the meaning provided in Section 2605-40 of the Department  
16 of State Police Law of the Civil Administrative Code of  
17 Illinois.

18 (c) The Committee Chairperson may appoint one ex officio  
19 member representing private laboratories, and one ex officio  
20 member who is a scientist representing the Northern Illinois  
21 Police Crime Laboratory. The president of the University of  
22 Illinois may appoint one ex officio member to the Committee  
23 representing social scientists.

24 (d) Appointments to the Committee shall be made within 90  
25 days after the effective date of this Act with the first  
26 meeting of the Committee being held no later than 180 days  
27 following the effective date of this Act. The members of the  
28 Committee shall choose a chairperson from among its members.  
29 The chairperson shall serve a 2-year term and shall be  
30 responsible for convening meetings, setting agendas, and  
31 finalizing reports.

32 (e) For the purpose of ensuring continuity on the  
33 Committee, each member of the Committee shall serve a 4-year  
34 term except 5 members, chosen at random, who shall serve an

1 initial term of 2 years, after which they shall be eligible for  
2 reappointment for a term of 4 years. Members shall serve at the  
3 discretion of their appointing authorities.

4 (f) Vacancies on the Committee shall be filled in  
5 accordance with subsections (b) and (e). A member of the  
6 Committee appointed to fill a vacancy shall serve for the  
7 unexpired term of the member whom he or she is succeeding.

8 (g) The Committee shall not be compensated. Travel costs  
9 associated with the Committee shall be reimbursed subject to  
10 the availability of State or the appointing agency's funds.  
11 Funds received from public or private sources shall be governed  
12 by all applicable laws to ensure ethics compliance. There is  
13 established the Illinois Laboratory Advisory Committee Act  
14 Fund in the State treasury into which funds received from  
15 public or private sources shall be deposited for use by the  
16 Committee.

17 (h) The Committee and individual members of the Committee  
18 are immune from any liability, whether civil or criminal, for  
19 the good faith performance of the duties of the Committee as  
20 specified in this Section.

21 (i) No member of the Committee shall be disqualified from  
22 holding public office or employment, nor shall he or she  
23 forfeit any such office or employment, by reason of appointment  
24 under this Act, and members may not be required to take and  
25 file oaths of office before serving on the Committee.

26 (j) Responsibilities of the Committee. The Committee  
27 shall:

28 (1) establish the rules and procedures concerning the  
29 conduct of Committee meetings and other affairs not  
30 inconsistent with law;

31 (2) make recommendations regarding improving policy  
32 and procedures to ensure counsel for the defense and  
33 prosecution are receiving all evidence, reports, and  
34 analytical documentation relevant to disclosure;

1           (3) make recommendations regarding accreditation and  
2           quality assurance as it applies to laboratory testing that  
3           will be in compliance with recognized International  
4           Organization for Standardization and applicable  
5           professional standards;

6           (4) make recommendations regarding training procedures  
7           to ensure training is conducted consistent with recognized  
8           scientific procedures;

9           (5) make recommendations regarding staffing and  
10          funding needs to ensure resources to obtain accurate,  
11          timely, and complete analysis of all samples submitted for  
12          testing;

13          (6) make recommendations regarding private  
14          laboratories conducting scientific testing, including  
15          forensic testing, to ensure quality assurance and  
16          accreditation standards are in concert with the  
17          governmental laboratories within the State;

18          (7) make recommendations to ensure consistency among  
19          judicial orders and rulings as it relates to evidence and  
20          discovery;

21          (8) examine ways to make more efficient use of the  
22          State laboratories, including facilities, personnel, and  
23          equipment;

24          (9) examine ways to reduce laboratory backlogs;

25          (10) review and comment on the proposed construction,  
26          expansion, or renovation of State laboratory facilities  
27          exceeding \$250,000 and generally plan for future  
28          laboratory needs;

29          (11) conduct such other activities as may be necessary  
30          to provide for the safe and efficient operation of State  
31          laboratories;

32          (12) make recommendations on other laboratory issues  
33          not listed in this Section as the Committee deems  
34          appropriate;

1           (13) examine ways to enhance Illinois Homeland  
2 Security through coordination of laboratory services with  
3 the Illinois Terrorism Task Force;

4           (14) continue to ensure that analysts are provided all  
5 necessary tools and information needed to draw all relevant  
6 scientific conclusions, and consider methods to guarantee  
7 that observations and conclusions are not inadvertently  
8 influenced by extraneous information; and

9           (15) make annual recommendations in a report filed with  
10 the Governor, General Assembly, and Illinois Supreme Court  
11 to facilitate any of the responsibilities of the Committee.  
12 Reports shall be furnished to all members of the Committee.

13 (Source: P.A. 93-784, eff. 1-1-05.)

14           Section 15. The Code of Criminal Procedure of 1963 is  
15 amended by changing Section 116-3 as follows:

16           (725 ILCS 5/116-3)

17           Sec. 116-3. Motion for fingerprint or forensic testing not  
18 available at trial regarding actual innocence.

19           (a) A defendant may make a motion before the trial court  
20 that entered the judgment of conviction in his or her case for  
21 the performance of fingerprint or forensic DNA testing,  
22 including comparison analysis of genetic marker groupings of  
23 the evidence collected by criminal justice agencies pursuant to  
24 the alleged offense, to those of the defendant, to those of  
25 other forensic evidence, and to those maintained under  
26 subsection (f) of Section 5-4-3 of the Unified Code of  
27 Corrections, on evidence that was secured in relation to the  
28 trial which resulted in his or her conviction, but which was  
29 not subject to the testing which is now requested because the  
30 technology for the testing was not available at the time of  
31 trial. Reasonable notice of the motion shall be served upon the  
32 State.

1 (b) The defendant must present a prima facie case that:

2 (1) identity was the issue in the trial which resulted  
3 in his or her conviction; and

4 (2) the evidence to be tested has been subject to a  
5 chain of custody sufficient to establish that it has not  
6 been substituted, tampered with, replaced, or altered in  
7 any material aspect.

8 (c) The trial court shall allow the testing under  
9 reasonable conditions designed to protect the State's  
10 interests in the integrity of the evidence and the testing  
11 process upon a determination that:

12 (1) the result of the testing has the scientific  
13 potential to produce new, noncumulative evidence  
14 materially relevant to the defendant's assertion of actual  
15 innocence even though the results may not completely  
16 exonerate the defendant;

17 (2) the testing requested employs a scientific method  
18 generally accepted within the relevant scientific  
19 community.

20 (3) when forensic DNA testing is requested, and the  
21 testing is to be performed on or after the effective date  
22 of this amendatory Act of the 94th General Assembly, the  
23 forensic DNA testing shall be performed by (i) an American  
24 Society of Crime Laboratory Directors/Laboratory  
25 Accreditation Board (ASCLD/LAB) accredited laboratory,  
26 (ii) an International Organization for Standardization  
27 (ISO) accredited laboratory, or (iii) an independent  
28 laboratory that a court finds to be qualified to do the  
29 testing required in the pending case.

30 (Source: P.A. 93-605, eff. 11-19-03.)

31 Section 20. The Unified Code of Corrections is amended by  
32 changing Section 5-4-3 as follows:

1 (730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

2 Sec. 5-4-3. Persons convicted of, or found delinquent for,  
3 certain offenses or institutionalized as sexually dangerous;  
4 specimens; genetic marker groups.

5 (a) Any person convicted of, found guilty under the  
6 Juvenile Court Act of 1987 for, or who received a disposition  
7 of court supervision for, a qualifying offense or attempt of a  
8 qualifying offense, convicted or found guilty of any offense  
9 classified as a felony under Illinois law, found guilty or  
10 given supervision for any offense classified as a felony under  
11 the Juvenile Court Act of 1987, or institutionalized as a  
12 sexually dangerous person under the Sexually Dangerous Persons  
13 Act, or committed as a sexually violent person under the  
14 Sexually Violent Persons Commitment Act shall, regardless of  
15 the sentence or disposition imposed, be required to submit  
16 specimens of blood, saliva, or tissue to the Illinois  
17 Department of State Police in accordance with the provisions of  
18 this Section, provided such person is:

19 (1) convicted of a qualifying offense or attempt of a  
20 qualifying offense on or after July 1, 1990 and sentenced  
21 to a term of imprisonment, periodic imprisonment, fine,  
22 probation, conditional discharge or any other form of  
23 sentence, or given a disposition of court supervision for  
24 the offense;

25 (1.5) found guilty or given supervision under the  
26 Juvenile Court Act of 1987 for a qualifying offense or  
27 attempt of a qualifying offense on or after January 1,  
28 1997;

29 (2) ordered institutionalized as a sexually dangerous  
30 person on or after July 1, 1990;

31 (3) convicted of a qualifying offense or attempt of a  
32 qualifying offense before July 1, 1990 and is presently  
33 confined as a result of such conviction in any State  
34 correctional facility or county jail or is presently

1 serving a sentence of probation, conditional discharge or  
2 periodic imprisonment as a result of such conviction;

3 (3.5) convicted or found guilty of any offense  
4 classified as a felony under Illinois law or found guilty  
5 or given supervision for such an offense under the Juvenile  
6 Court Act of 1987 on or after August 22, 2002;

7 (4) presently institutionalized as a sexually  
8 dangerous person or presently institutionalized as a  
9 person found guilty but mentally ill of a sexual offense or  
10 attempt to commit a sexual offense;

11 (4.5) ordered committed as a sexually violent person on  
12 or after the effective date of the Sexually Violent Persons  
13 Commitment Act; or

14 (5) seeking transfer to or residency in Illinois under  
15 Sections 3-3-11.05 through 3-3-11.5 of the Unified Code of  
16 Corrections and the Interstate Compact for Adult Offender  
17 Supervision or the Interstate Agreements on Sexually  
18 Dangerous Persons Act.

19 Notwithstanding other provisions of this Section, any  
20 person incarcerated in a facility of the Illinois Department of  
21 Corrections on or after August 22, 2002 shall be required to  
22 submit a specimen of blood, saliva, or tissue prior to his or  
23 her final discharge or release on parole or mandatory  
24 supervised release, as a condition of his or her parole or  
25 mandatory supervised release.

26 Notwithstanding other provisions of this Section, any  
27 person sentenced to life imprisonment in a facility of the  
28 Illinois Department of Corrections after the effective date of  
29 this amendatory Act of the 94th General Assembly or sentenced  
30 to death after the effective date of this amendatory Act of the  
31 94th General Assembly shall be required to provide a specimen  
32 of blood, saliva, or tissue within 45 days after sentencing or  
33 disposition at a collection site designated by the Illinois  
34 Department of State Police. Any person serving a sentence of

1 life imprisonment in a facility of the Illinois Department of  
2 Corrections on the effective date of this amendatory Act of the  
3 94th General Assembly or any person who is under a sentence of  
4 death on the effective date of this amendatory Act of the 94th  
5 General Assembly shall be required to provide a specimen of  
6 blood, saliva, or tissue upon request at a collection site  
7 designated by the Illinois Department of State Police.

8 (a-5) Any person who was otherwise convicted of or received  
9 a disposition of court supervision for any other offense under  
10 the Criminal Code of 1961 or who was found guilty or given  
11 supervision for such a violation under the Juvenile Court Act  
12 of 1987, may, regardless of the sentence imposed, be required  
13 by an order of the court to submit specimens of blood, saliva,  
14 or tissue to the Illinois Department of State Police in  
15 accordance with the provisions of this Section.

16 (b) Any person required by paragraphs (a) (1), (a) (1.5),  
17 (a) (2), (a) (3.5), and (a-5) to provide specimens of blood,  
18 saliva, or tissue shall provide specimens of blood, saliva, or  
19 tissue within 45 days after sentencing or disposition at a  
20 collection site designated by the Illinois Department of State  
21 Police.

22 (c) Any person required by paragraphs (a) (3), (a) (4), and  
23 (a) (4.5) to provide specimens of blood, saliva, or tissue shall  
24 be required to provide such samples prior to final discharge,  
25 parole, or release at a collection site designated by the  
26 Illinois Department of State Police.

27 (c-5) Any person required by paragraph (a) (5) to provide  
28 specimens of blood, saliva, or tissue shall, where feasible, be  
29 required to provide the specimens before being accepted for  
30 conditioned residency in Illinois under the interstate compact  
31 or agreement, but no later than 45 days after arrival in this  
32 State.

33 (c-6) The Illinois Department of State Police may determine  
34 which type of specimen or specimens, blood, saliva, or tissue,

1 is acceptable for submission to the Division of Forensic  
2 Services for analysis.

3 (d) The Illinois Department of State Police shall provide  
4 all equipment and instructions necessary for the collection of  
5 blood samples. The collection of samples shall be performed in  
6 a medically approved manner. Only a physician authorized to  
7 practice medicine, a registered nurse or other qualified person  
8 trained in venipuncture may withdraw blood for the purposes of  
9 this Act. The samples shall thereafter be forwarded to the  
10 Illinois Department of State Police, Division of Forensic  
11 Services, for analysis and categorizing into genetic marker  
12 groupings.

13 (d-1) The Illinois Department of State Police shall provide  
14 all equipment and instructions necessary for the collection of  
15 saliva samples. The collection of saliva samples shall be  
16 performed in a medically approved manner. Only a person trained  
17 in the instructions promulgated by the Illinois State Police on  
18 collecting saliva may collect saliva for the purposes of this  
19 Section. The samples shall thereafter be forwarded to the  
20 Illinois Department of State Police, Division of Forensic  
21 Services, for analysis and categorizing into genetic marker  
22 groupings.

23 (d-2) The Illinois Department of State Police shall provide  
24 all equipment and instructions necessary for the collection of  
25 tissue samples. The collection of tissue samples shall be  
26 performed in a medically approved manner. Only a person trained  
27 in the instructions promulgated by the Illinois State Police on  
28 collecting tissue may collect tissue for the purposes of this  
29 Section. The samples shall thereafter be forwarded to the  
30 Illinois Department of State Police, Division of Forensic  
31 Services, for analysis and categorizing into genetic marker  
32 groupings.

33 (d-5) To the extent that funds are available, the Illinois  
34 Department of State Police shall contract with qualified

1 personnel and certified laboratories for the collection,  
2 analysis, and categorization of known samples, except as  
3 provided in subsection (n) of this Section.

4 (d-6) Agencies designated by the Illinois Department of  
5 State Police and the Illinois Department of State Police may  
6 contract with third parties to provide for the collection or  
7 analysis of DNA, or both, of an offender's blood, saliva, and  
8 tissue samples, except as provided in subsection (n) of this  
9 Section.

10 (e) The genetic marker groupings shall be maintained by the  
11 Illinois Department of State Police, Division of Forensic  
12 Services.

13 (f) The genetic marker grouping analysis information  
14 obtained pursuant to this Act shall be confidential and shall  
15 be released only to peace officers of the United States, of  
16 other states or territories, of the insular possessions of the  
17 United States, of foreign countries duly authorized to receive  
18 the same, to all peace officers of the State of Illinois and to  
19 all prosecutorial agencies, and to defense counsel as provided  
20 by Section 116-5 of the Code of Criminal Procedure of 1963. The  
21 genetic marker grouping analysis information obtained pursuant  
22 to this Act shall be used only for (i) valid law enforcement  
23 identification purposes and as required by the Federal Bureau  
24 of Investigation for participation in the National DNA  
25 database, (ii) technology validation purposes, (iii) a  
26 population statistics database, (iv) quality assurance  
27 purposes if personally identifying information is removed, (v)  
28 assisting in the defense of the criminally accused pursuant to  
29 Section 116-5 of the Code of Criminal Procedure of 1963, or  
30 (vi) identifying and assisting in the prosecution of a person  
31 who is suspected of committing a sexual assault as defined in  
32 Section 1a of the Sexual Assault Survivors Emergency Treatment  
33 Act. Notwithstanding any other statutory provision to the  
34 contrary, all information obtained under this Section shall be

1 maintained in a single State data base, which may be uploaded  
2 into a national database, and which information may be subject  
3 to expungement only as set forth in subsection (f-1).

4 (f-1) Upon receipt of notification of a reversal of a  
5 conviction based on actual innocence, or of the granting of a  
6 pardon pursuant to Section 12 of Article V of the Illinois  
7 Constitution, if that pardon document specifically states that  
8 the reason for the pardon is the actual innocence of an  
9 individual whose DNA record has been stored in the State or  
10 national DNA identification index in accordance with this  
11 Section by the Illinois Department of State Police, the DNA  
12 record shall be expunged from the DNA identification index, and  
13 the Department shall by rule prescribe procedures to ensure  
14 that the record and any samples, analyses, or other documents  
15 relating to such record, whether in the possession of the  
16 Department or any law enforcement or police agency, or any  
17 forensic DNA laboratory, including any duplicates or copies  
18 thereof, are destroyed and a letter is sent to the court  
19 verifying the expungement is completed.

20 (f-5) Any person who intentionally uses genetic marker  
21 grouping analysis information, or any other information  
22 derived from a DNA sample, beyond the authorized uses as  
23 provided under this Section, or any other Illinois law, is  
24 guilty of a Class 4 felony, and shall be subject to a fine of  
25 not less than \$5,000.

26 (f-6) The Illinois Department of State Police may contract  
27 with third parties for the purposes of implementing this  
28 amendatory Act of the 93rd General Assembly, except as provided  
29 in subsection (n) of this Section. Any other party contracting  
30 to carry out the functions of this Section shall be subject to  
31 the same restrictions and requirements of this Section insofar  
32 as applicable, as the Illinois Department of State Police, and  
33 to any additional restrictions imposed by the Illinois  
34 Department of State Police.

1 (g) For the purposes of this Section, "qualifying offense"  
2 means any of the following:

3 (1) any violation or inchoate violation of Section  
4 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the  
5 Criminal Code of 1961;

6 (1.1) any violation or inchoate violation of Section  
7 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,  
8 18-4, 19-1, or 19-2 of the Criminal Code of 1961 for which  
9 persons are convicted on or after July 1, 2001;

10 (2) any former statute of this State which defined a  
11 felony sexual offense;

12 (3) (blank);

13 (4) any inchoate violation of Section 9-3.1, 11-9.3,  
14 12-7.3, or 12-7.4 of the Criminal Code of 1961; or

15 (5) any violation or inchoate violation of Article 29D  
16 of the Criminal Code of 1961.

17 (g-5) (Blank).

18 (h) The Illinois Department of State Police shall be the  
19 State central repository for all genetic marker grouping  
20 analysis information obtained pursuant to this Act. The  
21 Illinois Department of State Police may promulgate rules for  
22 the form and manner of the collection of blood, saliva, or  
23 tissue samples and other procedures for the operation of this  
24 Act. The provisions of the Administrative Review Law shall  
25 apply to all actions taken under the rules so promulgated.

26 (i) (1) A person required to provide a blood, saliva, or  
27 tissue specimen shall cooperate with the collection of the  
28 specimen and any deliberate act by that person intended to  
29 impede, delay or stop the collection of the blood, saliva,  
30 or tissue specimen is a Class A misdemeanor.

31 (2) In the event that a person's DNA sample is not  
32 adequate for any reason, the person shall provide another  
33 DNA sample for analysis. Duly authorized law enforcement  
34 and corrections personnel may employ reasonable force in

1 cases in which an individual refuses to provide a DNA  
2 sample required under this Act.

3 (j) Any person required by subsection (a) to submit  
4 specimens of blood, saliva, or tissue to the Illinois  
5 Department of State Police for analysis and categorization into  
6 genetic marker grouping, in addition to any other disposition,  
7 penalty, or fine imposed, shall pay an analysis fee of \$200. If  
8 the analysis fee is not paid at the time of sentencing, the  
9 court shall establish a fee schedule by which the entire amount  
10 of the analysis fee shall be paid in full, such schedule not to  
11 exceed 24 months from the time of conviction. The inability to  
12 pay this analysis fee shall not be the sole ground to  
13 incarcerate the person.

14 (k) All analysis and categorization fees provided for by  
15 subsection (j) shall be regulated as follows:

16 (1) The State Offender DNA Identification System Fund  
17 is hereby created as a special fund in the State Treasury.

18 (2) All fees shall be collected by the clerk of the  
19 court and forwarded to the State Offender DNA  
20 Identification System Fund for deposit. The clerk of the  
21 circuit court may retain the amount of \$10 from each  
22 collected analysis fee to offset administrative costs  
23 incurred in carrying out the clerk's responsibilities  
24 under this Section.

25 (3) Fees deposited into the State Offender DNA  
26 Identification System Fund shall be used by Illinois State  
27 Police crime laboratories as designated by the Director of  
28 State Police. These funds shall be in addition to any  
29 allocations made pursuant to existing laws and shall be  
30 designated for the exclusive use of State crime  
31 laboratories. These uses may include, but are not limited  
32 to, the following:

33 (A) Costs incurred in providing analysis and  
34 genetic marker categorization as required by

1 subsection (d).

2 (B) Costs incurred in maintaining genetic marker  
3 groupings as required by subsection (e).

4 (C) Costs incurred in the purchase and maintenance  
5 of equipment for use in performing analyses.

6 (D) Costs incurred in continuing research and  
7 development of new techniques for analysis and genetic  
8 marker categorization.

9 (E) Costs incurred in continuing education,  
10 training, and professional development of forensic  
11 scientists regularly employed by these laboratories.

12 (1) The failure of a person to provide a specimen, or of  
13 any person or agency to collect a specimen, within the 45 day  
14 period shall in no way alter the obligation of the person to  
15 submit such specimen, or the authority of the Illinois  
16 Department of State Police or persons designated by the  
17 Department to collect the specimen, or the authority of the  
18 Illinois Department of State Police to accept, analyze and  
19 maintain the specimen or to maintain or upload results of  
20 genetic marker grouping analysis information into a State or  
21 national database.

22 (m) If any provision of this amendatory Act of the 93rd  
23 General Assembly is held unconstitutional or otherwise  
24 invalid, the remainder of this amendatory Act of the 93rd  
25 General Assembly is not affected.

26 (n) Neither the Department of State Police, the Division of  
27 Forensic Services, nor any laboratory of the Division of  
28 Forensic Services may contract out forensic testing, as defined  
29 in Section 2605-40 of the Department of State Police Law of the  
30 Civil Administrative Code of Illinois, for the purpose of an  
31 active investigation or a matter pending before a court of  
32 competent jurisdiction.

33 (Source: P.A. 93-216, eff. 1-1-04; 93-605, eff. 11-19-03;  
34 93-781, eff. 1-1-05; 94-16, eff. 6-13-05.)".